THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.24503 of 2004, 9742 of 2005 and 3134 of 2006
and
CONTEMPT CASE No.1162 of 2005

Dated: 03.08.2007

Between:

D.Prabhakar Rao and others.

..... PETITIONERS

AND

The Government of Andhra Pradesh, rep.by its Principal Secretary, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

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and
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COMMON ORDER:

W.P.24503 of 2004 is filed by one D.Prabhakar Rao claiming himself to be the Chairman of Sri Avatar Meharbaba Charitable Trust (hereafter called, Sri Meharbaba Trust or Trust), Chandragiri Agraharam, Tettekunta Village, Vemulawada Mandal, Karimnagar District. In this Government of Andhra Pradesh, District Revenue Officials and six private persons are impleaded as the respondents 5 to 9 (now respondents 6 to 10, since respondent No.5 died respondent No.10 was added as LR of deceased respondent No.5). The prayer is to direct respondents 1 to 4 to evict the encroachers from land in survey No.6 admeasuring Acs.11.25 guntas and to prevent alienation of said land by respondents 6 to 10. This Court, while admitting this writ petition on 29.12.2004, passed interim order in W.P.M.P.No.32086 of 2004 directing the revenue officials to stop alienations and construction of houses in said land. Alleging that in spite of said order the Revenue Divisional Officer (RDO), Siricilla, and the Mandal Revenue Officer (MRO), Vemulawada, are allowing alienations and constructions, D.Prabhakar Rao filed C.C.No.1162 of 2005. W.P.No.9742 of 2005 is filed by Sri Meharbaba Trust and nine of its devotees seeking a direction to the District and local Police Officials to give protection to the devotees at the time of offering worship and conducting *bajanas*. W.P.No.3134 of 2006 is filed assailing a memo in Rc.No.E/77/04 dated 21.12.2005 issued by MRO informing Sri Meharbaba Trust that the land admeasuring Acs.8.35 guntas in survey No.4 is not available for alienation to Trust. These three cases are in relation to the alienation of land in survey No.4 to Sri Meharbaba Trust and the alleged encroachment of land in survey No.6 and because right from the beginning of their institution they are coming together as group of cases, this common order shall dispose of all cases.

The brief fact of the matter is that the land in survey No.4 in total admeasuring Acs.8.35 guntas (hereafter called, schedule 'A' land) is Government land and the land in survey No.6 admeasuring Acs.11.25 guntas (hereafter called, schedule 'B' land) is disputedly private/Government land. It is alleged that the entire extent of schedule 'A' land is in possession of Sri Meharbaba Trust and that it constructed a prayer hall. Trust made a representation to the District Collector requesting for alienation of schedule 'A' land for developing educational

institution and greenery surrounding the Trust. When the same was not considered, they filed W.P.No.3081 of 2004 seeking a direction for expeditious disposal of their representation. In August, 2004, this Court directed District Collector to dispose of such representation. Even while consideration was pending alleging that schedule 'B' land belonging to the Government is encroached upon by contesting respondents, (respondents 6 to 10 therein) and that in spite of complaint no action was taken, first writ petition, being W.P.No.24503 of 2004, is filed.

Four months thereafter Sri Meharbaba Trust and its devotees filed second writ petition, being W.P.No.9742 of 2005, alleging that the Sarpanch of the Village and another are interfering with the enjoyment of schedule 'A' land by Sri Meharbaba Trust and that the temple was locked highhandedly. They allege that the Police did not take any action and therefore, they sought a direction to that effect. When these two petitions are pending, the District Collector passed note orders on 20.12.2005 rejecting the request for alienation on three grounds, namely, first Sri Meharbaba Trust is not registered under the Registration Act, 1908 or with Income tax department; secondly, there is no resolution of the Gram Panchayat agreeing for alienation of schedule 'A' land; and thirdly, a part of Schedule 'A' land admeasuring Acs.2.30 guntas has already been assigned as house sites and that the remaining land is also fit for assignment as house sites. As per the orders of the District Collector, MRO issued memo dated 21.12.2005 referred to hereinabove informing Chairman of Sri Meharbaba Trust that schedule 'A' land is not available for alienation, which is assailed in third writ petition, being W.P.No.3134 of 2006.

The District Collector who is second respondent in W.P.No.24503 of 2004 filed a counter-affidavit. It is categorically stated that schedule 'B' land is private land and that it is not Government land. When the land is not Government land, the Government officials cannot control possession or restrain enjoyment by the contesting respondents. It is also averred that in obedience to the interim order passed by this Court on 29.12.2004 in W.P.M.P.No.32086 of 2004 in W.P.No.24503 of 2004, MRO issued memo dated 06.01.2005 to the Mandal Revenue Inspector and the Panchayat Secretary not to allow construction in schedule 'B' land.

Sri Meharbaba Trust or its Chairman have not filed any reply-affidavit in any of the writ petitions denying these averments. In W.P.No.9742 of 2005 though the Superintendent of Police and two subordinate police officials have not filed any counter-affidavit, the Sarpanch – Mallaiah (sixth respondent in said writ petition) filed a counter-affidavit denying the allegations that there is interference with the activities taken by Sri Meharbaba Trust or its devotees. In W.P.No.3134 of 2006, an

affidavit is filed by respondents 4 to 14 opposing the writ petition and Sri Meharbaba Trust filed reply affidavit.

In addition to the events leading to the filing of these writ petitions and contempt case as noticed in brief supra, it is necessary to mention the subsequent events. Though the District Collector on 20.12.2005 rejected the proposals for alienation which is subject matter of W.P.No.3134 of 2006, probably due to persuasion of Sri Meharbaba Trust, the temple constructed by it was registered as a religious/charitable institution under Section 6(c) (i) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 on 21.03.2007. Thereafter Sri Meharbaba Trust submitted requisition for alienation of entire extent of schedule 'A' land and the proposals are being processed at different levels in revenue department at District level. Insofar as schedule 'B' land is concerned, having regard to the categorical averment made by the highest District Official, namely, the District Collector, that schedule 'B' land is private patta land, there cannot be any objection for Sri Meharbaba Trust if the owners of said land deal with the same as they like.

During the course of their submissions, the learned counsel for Trust and the learned counsel for the Sarpanch and other persons impleaded in W.P.No.3134 of 2006, raised two contentious issues. These relate to the extent of schedule 'A' land available for consideration for alienation in favour of Trust and the suitability or otherwise of said land for construction of houses in the event of assignment to the persons belonging to weaker sections.

A perusal of the proceedings/minutes/note orders of the District Collector dated 20.12.2005 in pursuance of which the order/memo dated 21.12.2005 impugned in W.P.No.3134 of 2006 is issued shows that an extent of Acs.2.30 guntas in schedule 'A' land was assigned as house pattas and the balance land is also suitable for assignment as house sites. Whether or not the remaining schedule 'A' land is suitable for assignment as house sites under Integrated Novel Development In Rural And Model Municipal Areas (INDIRAMMA) scheme and whether or not the so called assignees have not violated the terms and conditions are matters for enquiry. A thorough enquiry has to be conducted by all revenue officials before sending proposals for alienation to the higher authorities, namely, the Chief Commissioner of Land Administration or the Government of Andhra Pradesh, as the case may be. It is also a matter for enquiry for the revenue officials regarding the actual extent of land which is under occupation of Sri Meharbaba Trust on which a temple has already been constructed. Unless and until a thorough enquiry is conducted by the District Collector personally or through RDO, no proposals can be sent for alienation even if as alleged,

the meeting convened by RDO proposed to allot requisite land in favour of Trust. Be it noted that MRO, RDO or the District Collector are only competent to examine the proposals and send a proper recommendation and ultimately it is the Government to take decision and to alienate/allot the land to Sri Meharbaba Trust.

In view of the above, these cases are disposed of in the following manner.

(i) W.P.No.24503 of 2004 is dismissed observing that when schedule 'B' land is private patta land, either Sri Meharbaba Trust or the revenue officials cannot in any manner interfere with the title or enjoyment by the real owners.

(ii) W.P.No.9742 of 2005 is disposed of observing that if there is any interference from anybody with regard to the religious activities, they should give complaint to the Station House Officer concerned, who shall take necessary action in accordance with law. This direction shall not be construed as recognizing the right of the Trust for alienation or accepting their plea that they are in possession of entire extent of land in survey No.4 of Tettekunta Village.

(iii) W.P.No.3134 of 2006 is disposed of directing the District Collector to consider proposals for alienation, if any, afresh ignoring the earlier decision taken by him in the minutes/note orders dated 20.12.2005 in file N.Dis.No.E1/5892/04, after conducting detailed enquiry.

(iv) Insofar as C.C.No.1162 of 2005 is concerned, as the Government has nothing to do with schedule 'B' land, Sri Meharbaba Trust or its Chairman cannot have any grievance. The Contempt Case is dismissed.

No order as to costs.

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(**V.V.S.RAO, J**)

03rd August, 2007
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